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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,577	11/16/2006	Ragnar Lotsberg	06051	3455
23338 7590 10/31/2007 DENNISON, SCHULTZ & MACDONALD 1727 KING STREET SUITE 105 ALEXANDRIA, VA 22314			EXAMINER HARTMANN, GARY S	
			ART UNIT 3671	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/578,577	LOTSBERG, RAGNAR	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gary Hartmann	3671	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Specification***

The specification is objected to because the specification improperly refers to claim 1 (page 2, lines 35-36) and the section headings do not conform with standard U.S. practice (e.g., "Example" should be --Brief Description of the Drawings-- and --Detailed Description--, etc.).

### ***Claim Objections***

Claims 1, 5, 7 and 8 are objected to because: regarding claim 1, "the lower two vehicle tires" lacks proper antecedent basis; regarding claims 5 and 7, "it" must be replaced with a recitation of a specific term due to the equivocal nature of the term; and regarding claim 8, "carries" should be --carry-- in order to match the plural noun (i.e., "arms"). Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the term "at least approximately coaxial" is indefinite because it is unclear what is and is not within the scope of this term.

Regarding claim 2, the term "particularly" renders the claim indefinite because it is unclear whether the limitations following the term are part of the claimed invention.

Regarding claim 7, the phrase "or similar" renders the claims indefinite because the claim includes elements not actually disclosed (those encompassed by "or similar"), thereby rendering the scope of the claims unascertainable.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moon (U.S. Patent 5,238,228) in view of Way et al. (U.S. Patent 3,848,853).

Moon discloses a crash absorber including stacked tires (12) including a chamber (Figure 1, for example) with tire sides filled with filling elements (24). Moon includes connection bolts (Figure 1, for example), but they do not correspond with holes in the filling elements. Way teaches connecting adjacent tires with bolts disposed through holes in the sidewalls (Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the internal bolts of Way with the absorber of Moon in order to obtain a sturdy construction, in accordance with the teaching of Way. Given this combination, the filling elements would naturally include holes since holes would be needed in order to accommodate the bolts.

The filling elements are tire sides.

Regarding claims 3-5, Moon teaches linking a plurality of absorbers (column 4, lines 50-55), but provides little detail regarding the construction thereof; thereby leaving the configuration to one skilled in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured the connectors of Moon in the manner claimed in order to obtain an inexpensive and sturdy configuration.

Regarding claims 6-8, Moon is silent regarding a sign; however, Moon is disclosed to be used in conjunction with vehicular traffic. It is common to attach signs to crash absorbing barriers in order to provide information and/or increase roadway safety. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured support arms in the manner claimed in order to provide secure attachment of a sign; thereby providing information as desired.

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Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Way et al., as applied above, in view of Moon, as applied above.

Way teaches the crash absorber including stacked tires (Figure 3), but does not teach the filling elements. Moon teaches including filling elements (24) in order increase durability of the crash absorber. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included filling elements with Way.

Regarding claims 3-5, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured connectors in the manner claimed in order to construct a linear barrier as needed in a particular application.

Regarding claims 6-8, it is common to attach signs to crash absorbing barriers in order to provide information and/or increase roadway safety. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured support arms in the manner claimed in order to provide secure attachment of a sign; thereby providing information as desired.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Tuesday through Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Gary Hartmann  
Primary Examiner  
Art Unit 3671